REMARKS

Firstly, the Examiner is cordially thanked for the opportunity to discuss the case in a personal interview which occurred at the PTO on October 2, 2002. During the course of the interview, all pending claims were discussed with the major focus of discussion being on claims 42 and 43.

Claims 42, 43, 69, and 70 have been rewritten as discusses during the interview. Applicants have adopted all of the examiner's suggestions. It is believed this overcomes all outstanding issues and places this case in condition for allowance. Clearly no further searching is needed and no new issues are raised, since the new language is in essence that of previously examined dependent claim 66.

The Kohler reference discloses an antiserum which contains a mixture of antibodies having multiple specificities against the *Listeria* protein. The antiserum is prepared by injecting a rabbit with the intact p60 protein (Kohler reference, page 1944, second column). By contrast, applicant's invention is related to antibodies which can specifically binds only epitopes within a discreet set of p60 peptides (SEQ ID NO:17, 20, 26, 29, 30 or 31). Moreover, applicants have demonstrated that their antibodies can be successfully used to react with and identify *Listeria monocytogenes*, the pathogenic species of *Listeria* bacteria and are not cross-reactive with other *Listeria* species (see e.g., the Declaration of Dr. Shubert dated March 27, 1995 which was submitted with a previous response which shows that an antibody generated against the peptide SEQ ID NO:42, which is a form of SEQ ID NO:29, is specific for *L. monocytogenes* as it does not react with five other non-pathogenic species of *Listeria* in a microtiter immunoassay). Kohler does not disclose any of the antibodies of the instant invention which are directed to the aforementioned peptides. Kohler only discloses that the polyclonal antiserum can be used to react with a genetically engineered *E. coli* clone expressing the p60 protein and culture supernatant proteins of *L. monocytogenes* (see e.g., figure 1 of Kohler). Also, the antibodies produced according to Kohler are not specific for *Listeria monocytogenes* as evidenced by the paper of Bubert et al. at page 3120, second column (previously submitted with the response filed on June 11, 2001). Nothing in the Kohler reference would lead one

of skill in the art inexorably to any of the claimed isolated antibodies. Therefore, there can be no rejection based on anticipation under §102(b) of the patent statute.

The combination of Kohler with Lerner provides at most a suggestion to try immunizing with a multitude of peptides found within the L.monocytogenes-specific p60 polypeptide sequences. It clearly does not provide the teaching or motivation to use the specific peptides of applicants' invention to obtain isolated antibodies which are specific for *L. monocytogenes* nor does it provide a reasonable expectation of success. Thus, the combination of references in no way renders the instant claims obvious, *In re Vaeck* 20 USPQ 2d 1438 (Fed. Cir. 1991). Moreover, applicant's data clearly shows that only a certain subset of peptides derived from the p60 protein have use for generating antibodies which are in fact specific for detection of *L. monocytogenes* (see e.g., specification at page 11, lines 5-10). There is clearly no prima facie case of obviousness in the combination of Kohler with Lerner or any other reference which discloses protocols for making antibodies, polyclonal or monoclonal. Therefore, rejection of the claims based on obviousness under §103 of the patent statute is without a proper legal basis and should be withdrawn.

In view of the above remarks and amendments, it is submitted that this application is now ready for allowance. However, if there are any remaining issues which can be expeditiously resolved by a telephone conference, the Examiner is courteously requested to telephone the undersigned at the number indicated below.

Attached hereto is a marked-up version of the changes made to the claims by the current amendment. The attached pages are captioned "Version with Markings to Show Changes Made".

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADE TO THE CLAIMS

42. (Amended) An isolated antibody which specifically binds ~~to the p60 protein from pathogenic Listeria, wherein said antibody binds~~ an epitope from only one of the following peptides: SEQ ID NO:17, 20, 26, 29, 30 or 31 of the p60 protein from Listeria monocytogenes and wherein said antibody does not cross-react with an epitope from other Listeria species.

43. (Amended) An isolated antibody which is ~~can be~~ prepared by immunizing an experimental animal with only one of the following peptides: SEQ ID NO: 17, 20, 26, 29, 30 or 31, or with an immunogenic conjugate which comprises only one of the following peptides: SEQ ID NO:17, 20, 26, 29, 30 or 31, wherein said antibody specifically binds to the p60 protein from ~~pathogenic listeria~~ Listeria monocytogenes.

67. (Amended) An isolated antibody of claim ~~66~~ 42, which is a polyclonal antibody.

68. (Amended) An isolated antibody of claim ~~66~~ 42, which is a monoclonal antibody.

69. (Amended) A composition comprising at least two monoclonal antibodies ~~of claim 60,~~ each of which binds ~~to a different one of said peptides~~ an epitope from a different said peptide according to claim 42.

70. (Amended) The composition according to claim 69, ~~A composition comprising at least two monoclonal antibodies of claim 62, each of which has been prepared~~ wherein said monoclonal antibodies are prepared by immunizing with different ~~one of~~ said peptides, ~~or by immunizing with a~~ or different ~~one of said~~ immunogenic conjugates containing said peptides.